

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DOROTHY ALEXANDER

Plaintiff,

- against -

PHAIDON PRESS INC.

Defendant.

Docket No. 18-cv-4256

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Dorothy Alexander (“Alexander” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Phaidon Press Inc. (“PPI” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of American abstract painter Agnes Martin. The photograph is owned and registered by Alexander, a New York-based photographer. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Alexander is a photographer having a usual place of business at 565 W. 51<sup>st</sup> Street, #5S, New York, NY 10019.

6. Upon information and belief, PPI is a foreign business corporation duly organized and existing under the laws of Delaware with a place of business at 65 Bleeker St., 8<sup>th</sup> Fl., New York, NY 10012.

7. Upon information and belief, PPI is registered with the New York Department of State, Division of Corporations to do business in the State of New York.

8. At all times material hereto, Defendant has owned and operated the website at the URL: [www.phaidon.com](http://www.phaidon.com) (the “Website”).

9. PPI is a for-profit entity.

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photograph**

10. Alexander photographed American abstract painter Agnes Martin (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

11. Alexander is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

12. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-100-766, effective as of November 22, 2017 (the “Certificate”). A true and correct copy of the Certificate is attached hereto as Exhibit C.

**B. Defendant's Infringing Activities**

13. Defendant posted a listing on the Website for a hardback book entitled *Agnes Martin*. See <http://www.phaidon.com/store/art/agnes-martin-9780714859965/> (the "Article").

14. Defendant's Article prominently features the Photograph. Screenshots of the Article as it appears on the Website are attached hereto as Exhibit C.

15. Defendant did not license the Photograph from Plaintiff for its Article.

16. Defendant did not have Plaintiff's permission or consent to publish the Photograph on its Website.

17. Prior to publishing the Photograph on its Website, Defendant did not communicate with Plaintiff.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST PPI)**  
(17 U.S.C. §§ 106, 501)

18. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-17 above.

19. Defendant infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website.

20. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

21. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

22. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

23. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

24. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant PPI be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Defendant PPI be ordered to remove the Photograph from its Website;
3. That Plaintiff be awarded actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph pursuant to 17 U.S.C. § 504(b);
4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
May 11, 2018

LIEBOWITZ LAW FIRM, PLLC

By: /s/richardliebowitz

Richard Liebowitz

11 Sunrise Plaza, Suite 305

Valley Stream, NY 11580

Tel: (516) 233-1660

RL@LiebowitzLawFirm.com

*Attorneys for Plaintiff*

*Dorothy Alexander*